

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

-----X  
MERCH TRAFFIC, LLC,

Plaintiff,

v.

JOHN DOES 1-100, JANE DOES  
1-100, AND XYZ COMPANY,

Defendants.  
-----X

**PRELIMINARY INJUNCTION  
AND SEIZURE ORDER**

1:24-cv-6122 (OEM) (LKE)

Plaintiff Merch Traffic, LLC (“Plaintiff”) having moved by Order to Show Cause, ECF No. 6, with Temporary Restraining Order and Order of Seizure, for a Preliminary Injunction enjoining and restraining John Does 1-100, Jane Does 1-100, and XYZ Company (“Defendants”) from manufacturing, selling or distributing merchandise and seizing the same, bearing the federally registered trademarks, service marks, likenesses, logos, and/or other indicia of the Artist “**USHER**” (collectively, the “Artist’s Trademarks”) and ordering the seizure and impounding of such articles; and service having been effected upon certain defendants at the Artist’s concerts which have previously occurred; and Plaintiff’s application having come for a hearing before the Honorable Orelia E. Merchant on the 19<sup>th</sup> day of September, 2024, at the United States Courthouse for the Eastern District of New York, and Plaintiff having appeared by its attorney, and there having been no other appearances; and there being additional Defendants who continue and are about to distribute or sell such merchandise who have not yet been served with process, who will unless restrained by this Court, irreparably harm Plaintiffs through illegal sales of said merchandise;

Now, on presentation and consideration of Plaintiff's application for a preliminary injunction and seizure order, the declaration in support thereof, and all other pleadings and prior proceedings heretofore had in this matter, the Court hereby finds:

1. By reason of the substantial and continuous use of the Artist's Trademarks in connection with the Artist's work as a performer, said marks have acquired meanings identified with the Artist and with products and services associated with him;

2. The served Defendants, and those in active concert or participation with such defendants, have infringed upon Plaintiff's rights in the Artist's Trademarks, and have committed acts of unfair competition against Plaintiff herein by manufacturing, distributing, offering for sale and selling merchandise bearing any or all of the Artist's Trademarks at or near the sites of the Artist's concerts, without having obtained a license or any other authorization to do so, as alleged in the Complaint;

3. The Defendants' acts, and acts in active concert or participation with the Defendants' acts, constitute a violation of the United States Trademark Act in that they: a) involve goods or services; b) are activities which affect interstate commerce; and c) infringe the trademarks and/or bear a false designation of the source or origin of such goods or are likely to cause confusion, mistake or deception as to the affiliation, connection, association, sponsorship or approval of Plaintiff and/or the Artist with respect to such goods;

4. Defendants, and those in active concert or participation with them, will continue to sell such infringing merchandise unless enjoined by the Court; and

5. Copies of this Court's Temporary Restraining Order; Seizure Order; and Order to Show Cause Regarding Why A Preliminary Injunction and Seizure Order Should Not Issue and

the Complaint filed in support of Plaintiff's application in this case have been served upon the defendants and infringing, bootleg merchandise has been seized from the defendants;

**NOW, THEREFORE, IT IS HEREBY**

**ORDERED**, that the Defendants, their agents, employees, representatives, attorneys, successors, and assigns, and all persons, firms, and corporations acting in active concert or participation with Defendants, are enjoined and restrained from:

(A) Using any or all of the Artist's Trademarks, in connection with the sale, offering for sale, distribution, and/or advertising any clothing or other merchandise;

(B) Manufacturing, distributing, selling, and/or holding for sale any clothing or other merchandise which carries or otherwise uses any or all of the Artist's Trademarks; or

(C) Aiding, abetting, inducing, or encouraging another to perform any of the acts enjoined herein.

**IT IS FURTHER ORDERED**, that the U.S. Marshal for this district or for any district in which Plaintiff seeks to enforce this Order in the United States, the state police, local police, local deputy sheriffs or off-duty officers of the same, and any person acting under their supervision (collectively "Process Servers") are hereby authorized to seize and impound infringing merchandise bearing any or all of the Artist's Trademarks, namely, the federally registered trademarks, service marks, likenesses, logos, or other indicia of the Artist "**USHER**", or any colorable imitations or variations thereof, or associated marks which Defendants or their agents, employees or representatives attempt to sell or are holding for sale in the vicinity of any of the Artist's concerts from four (4) hours before to four (4) hours after any performance of the Artist within a four (4) mile vicinity of the stadiums, arenas or other venues set forth in Exhibit A hereto at which the Artist shall be performing or elsewhere where such merchandise is being sold, held

for sale or is otherwise found, including in any carton, bag, vehicle, or container in which the merchandise is transported or stored. All clothing, jewelry, photographs, posters, and other merchandise bearing any or all of the Artist's Trademarks, or any colorable imitations or variations thereof, being sold, offered for sale or held for sale in the vicinity of the stadiums, arenas or other places at which the Artist shall be performing shall be deemed to be merchandise subject to the seizure provisions of this Order.

**IT IS FURTHER ORDERED**, that service of a copy of this Order together with the Complaint be made upon Defendants by the Process Servers at the time the seizure provided for herein is effected and that such service shall be deemed good and sufficient.

**IT IS FURTHER ORDERED**, that each and every Defendant served with a copy of this Order promptly, courteously and peaceably identify himself or herself to the aforementioned Process Server.

**IT IS FURTHER ORDERED**, that the Process Server shall offer a receipt to each person from whom goods are seized.

**IT IS FURTHER ORDERED**, that any Defendant who is hereafter served with a copy of this Order who objects to the provisions herein may submit his or her objections to this Court or otherwise move for relief from this Court within ten (10) days of the date of seizure according to the Federal Rules of Civil Procedure, but no such objection shall serve to suspend this Order or stay the terms hereof unless otherwise ordered by this Court.

**IT IS FURTHER ORDERED**, that all infringing items seized in this action be delivered to the Plaintiff, pending final disposition of this matter.

**IT IS FURTHER ORDERED**, that the bond of Five Thousand Dollars (\$5,000) previously deposited with the Clerk of this Court to secure payment of costs incurred in enforcing

the provisions of the temporary restraining order and any damages sustained by any party who is found to have been wrongfully enjoined thereby is continued until final disposition of this matter.

**SO ORDERED.**

Dated: September 19, 2024

At: 7:20 pm.

/s/ Orelia E. Merchant

**THE HONORABLE ORELIA E. MERCHANT**  
**UNITED STATES DISTRICT JUDGE**

**EXHIBIT A TO  
PRELIMINARY INJUNCTION AND SEIZURE ORDER**

**USHER TOUR DATES****All concerts start at approximately 8 pm**

|              |                 |                          |
|--------------|-----------------|--------------------------|
| Sat 09/21/24 | Los Angeles, CA | Intuit Dome              |
| Sun 09/22/24 | Los Angeles, CA | Intuit Dome              |
| Tue 09/24/24 | Los Angeles, CA | Intuit Dome              |
| Wed 09/25/24 | Los Angeles, CA | Intuit Dome              |
| Sat 09/28/24 | Oakland, CA     | Oakland Arena            |
| Sun 09/29/24 | Oakland, CA     | Oakland Arena            |
| Thu 10/03/24 | Dallas, TX      | American Airlines Center |
| Fri 10/04/24 | Dallas, TX      | American Airlines Center |
| Sat 10/05/24 | Dallas, TX      | American Airlines Center |
| Mon 10/07/24 | Austin, TX      | Moody Center             |
| Tue 10/08/24 | Austin, TX      | Moody Center             |
| Fri 10/11/24 | Miami, FL       | Kaseya Center            |
| Sat 10/12/24 | Miami, FL       | Kaseya Center            |
| Mon 10/14/24 | Miami, FL       | Kaseya Center            |
| Thu 10/17/24 | Atlanta, GA     | State Farm Arena         |
| Fri 10/18/24 | Atlanta, GA     | State Farm Arena         |
| Sun 10/20/24 | Atlanta, GA     | State Farm Arena         |
| Tue 10/22/24 | Charlotte, NC   | Spectrum Center          |
| Wed 10/23/24 | Charlotte, NC   | Spectrum Center          |
| Fri 10/25/24 | St. Louis, MO   | Enterprise Center        |
| Sat 10/26/24 | St. Louis, MO   | Enterprise Center        |
| Mon 10/28/24 | Chicago, IL     | United Center            |
| Tue 10/29/24 | Chicago, IL     | United Center            |
| Thu 10/31/24 | Chicago, IL     | United Center            |
| Sat 11/02/24 | Minneapolis, MN | Target Center            |
| Sun 11/03/24 | Minneapolis, MN | Target Center            |
| Sun 11/10/24 | Seattle, WA     | Climate Pledge Arena     |
| Mon 11/11/24 | Seattle, WA     | Climate Pledge Arena     |
| Fri 11/15/24 | Las Vegas, NV   | T-Mobile Arena           |
| Sat 11/16/24 | Las Vegas, NV   | T-Mobile Arena           |
| Mon 11/18/24 | Anaheim, CA     | Honda Center             |
| Tue 11/19/24 | Anaheim, CA     | Honda Center             |
| Sat 11/23/24 | Phoenix, AZ     | Footprint Center         |
| Sun 11/24/24 | Phoenix, AZ     | Footprint Center         |
| Wed 11/27/24 | Houston, TX     | Toyota Center            |
| Fri 11/29/24 | Houston, TX     | Toyota Center            |
| Sat 11/30/24 | Houston, TX     | Toyota Center            |
| Mon 12/09/24 | Atlanta, GA     | State Farm Arena         |
| Tue 12/10/24 | Atlanta, GA     | State Farm Arena         |
| Thu 12/12/24 | Atlanta, GA     | State Farm Arena         |